

Remarks

Claims 1, 5, 10 and 11 are hereby amended, without disclaimer of or prejudice to the subject matter deleted therein. Support for the new claims is found in the Specification generally and the claims as originally filed. No new matter has been added.

Accordingly, the claims pending and under consideration are claims 1-7 and 10-11.

Rejection of Claims 5, 10 and 11 — 35 U.S.C. § 112, Second Paragraph

Claims 5, 10 and 11 are rejected under 35 U.S.C. § 112, Second Paragraph, as being incomplete (Office Action at page 3). Applicant has amended claims 5, 10 and 11 in the manner suggested by the Examiner thereby obviating the rejection. Accordingly, Applicant requests withdrawal of the rejection of claims 5, 10 and 11 under 35 U.S.C. § 112, Second Paragraph.

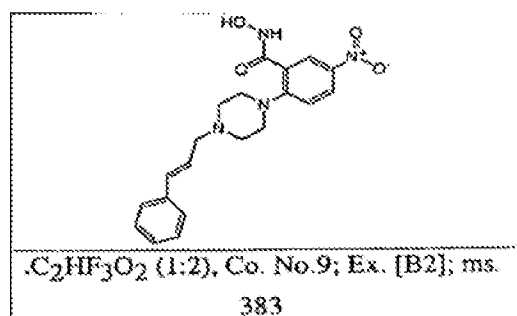
Rejection of Claims 1 and 3 — Nonstatutory Double Patenting

Claims 1 and 3 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-3 of copending patent application Serial No. 10/507,785 (Office Action at pages 4-5). Specifically, the Examiner states:

There is significant overlap between the structure of the compounds of the instant claims and those taught by the reference. For example, the first compound listed in on page 31, compound No. 9, which reads on claims 1-3 of the reference would anticipate claims 1 and 3 of the instant application if the reference was by another and pre-dated the instant application.

(Office Action at page 4). Applicant respectfully disagrees.

Compound 9, on page 31 of the reference application Serial No. 10/507,785:



does not anticipate claims 1 and 3 of the instant application because Compound 9 contains a double bond in the linker between A and the piperazine ring. In the instant application this linker is $\text{—C(R}^3\text{)}_2\text{—}$ which does not include the possibility of a double bond.

Thus, none of the claims of the reference application Serial No. 10/507,785 define an invention that is merely an obvious variant of the invention claimed in the patent. Rather, the instant application and the copending reference application differ significantly in the structure of the linker between A and the piperazine ring. Accordingly, Applicant requests withdrawal of the rejection of claims 1 and 3 under the judicially created doctrine of obviousness-type double patenting.

Conclusion

The Commissioner is hereby authorized to charge any deficiency or credit any overpayments necessitated by this Amendment to Deposit Account No. 10-0750/PRD2024USPCT/AGK.

Early favorable action on the merits is respectfully requested. Applicant respectfully requests that a timely Notice of Allowance of claims 1-7 and 10-11.

Respectfully submitted,

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